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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/444,083	11/22/1999	AMY LYNN FLETCHER	11.712	8175

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EXAMINER

STEPHENS, JACQUELINE F

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 02/21/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/444,083

Applicant(s)

FLETCHER ET AL. *mf*

Examiner

Jacqueline F Stephens

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5,8,14-20 and 22-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-29 is/are allowed.
- 6) ☒ Claim(s) 5,8,14-19 is/are rejected.
- 7) ☒ Claim(s) 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 12/10/02 in reference to the 103 rejection of claims 5, 8 and 14-19 have been fully considered but they are not persuasive. Applicant argues Sayama in view of Ames as applied to independent claims 5, 8, and 14 does not disclose fastening components wherein a transverse distance between the first and second fastening components is substantially equal to a transverse distance between the first and second mating fastening components. However, given the broadest reasonable interpretation of the claim, a transverse distance can constitute the distance between any two points on the first and second fastening components and the distance between any two points on the first and second mating components. Figure 1 of Sayama shows a portion of the mating component is an equal distance from the longitudinal edge of the article as compared to a portion of the fastening component. Therefore, a transverse distance between the first and second fastening components is substantially equal to a transverse distance between the first and second mating fastening components.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 5, 8, and 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sayama et al. (USPN 5846262) in view of Ames et al. (H1674).

Regarding claims 5 and 14, Sayama discloses the present invention substantially as claimed. However, Sayama is silent on whether or not the attachment panels comprise elastomeric materials. Ames discloses an absorbent article comprising elastomeric attachment panels (Figure 1, elements 62/64 and 38; col. 14, line 51 through col. 15, line 12; and col. 17, line 15 through col. 18, line 21). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the attachment panels of Sayama to incorporate elastomeric materials as taught by Ames. Doing so would provide attachment panels that give the absorbent article an improved fit and reduces the possibility of sagging or gapping.

Sayama/Ames discloses an absorbent article 1 (Figure 1) comprising an absorbent chassis defining a longitudinal axis, a transverse axis, front and back waist

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edges parallel to the transverse axis, opposite side edges extending between the front and back waist edges, a front (first) waist region contiguous with the front waist edge, a back (second) waist region contiguous with the back waist edge, and a crotch region **8**, which extends between and interconnects the first and second waist regions. The absorbent article of Sayama/Ames further comprises elastomeric side panels **11** and **12**. The side panels **12** are bonded to the absorbent chassis in the first (rear) waist region (Figure 1) and extend transversely outward from the absorbent chassis in the first waist region (Figure 1). Each attachment panel comprises a nonwoven substrate ('262 col. 3, lines 11-13) extending from the waist opening to the leg opening area.

The absorbent article of Sayama comprises a rectangular composite structure having opposite linear side edges parallel to the longitudinal axis and opposite linear end edges parallel to the transverse axis, the composite structure comprising a liquid permeable bodyside liner **2**, a liquid impermeable outer cover **3** bonded to the bodyside liner (col.2 lines 7-10), and an absorbent assembly **4** disposed between the bodyside liner and outer cover.

Sayama is silent on the composition of the absorbent core. However, Ames discloses an absorbent core comprising hydrophilic fibers ('674 col. 5, lines 56-67). It would have been obvious to one having ordinary skill in the art to incorporate hydrophilic fibers in the absorbent core of Sayama as taught in Ames. Doing so would provide an absorbent core that is soft and compressible and capable of absorbing and retaining urine and other body exudates.

The absorbent article further comprises a fastening system comprising first and second fastening components **15** disposed on the back side panels and attached to the distal edges of the side panel and first and second mating components **16** disposed on the front side panels, and attached to the distal edges of the side panel. The absorbent article is capable of providing a pant configuration having a waist opening and a pair of leg openings when the front and waist regions are attached. The absorbent article of Sayama/Ames further comprises elastomeric components disposed between the fastening components and the absorbent assembly. A transverse distance between the first and second fastening components is substantially equal to a transverse distance between the first and second mating components (Figure 1).

The absorbent article further comprises leg elastic members **13** longitudinally aligned along each side edge in the crotch region. The leg elastic members have front terminal points located adjacent longitudinally innermost parts of the front side panels and back terminal points located adjacent longitudinally innermost parts of the back side panels (Figure 1).

Regarding claim 15, Sayama discloses the present invention except for the fastening components in back and front waist regions abutting the respective waist edges. Ames discloses fastening components and mating fastening components that abut their respective waist edges. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the fasteners of Sayama to abut the waist region as taught by Ames. Doing so would provide improved fit at the waist of a wearer.

In reference to claim 16, the side panels of Sayama/Ames form part of the waist end edges parallel to the transverse axis (Figure 1) and opposite leg end edges. The panels are elastically extensible throughout ('674 col. 17, lines 15-32), which comprises the area from the waist end edge to the leg end edge.

In reference to claim 17, the front side panels of diaper are longitudinally spaced from the backside panels (Figure 1).

In reference to claim 18, the attachment panels have a length dimension that is about 20%-25% or greater than the overall length (Figure 1).

5. Claims 8 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sayama/Ames. Sayama/Ames discloses the present invention substantially as claimed. However, Sayama/Ames does not disclose the loop-type fasteners are disposed on the inner surface and the mating hook fasteners are disposed on the outer surface. It would have been obvious to one having ordinary skill in the art at the time the invention was made to dispose the loop-type fasteners on the inner surface and the mating hook fasteners on the outer surface, since a mere reversal of the essential working parts involves only routine skill in the art, and since Sayama discloses either component can be covered with the inventive protective sheet (col. 3, lines 20-25). Sayama/Ames discloses the loop-type fasteners are sized larger than the mating hook-type fasteners ('262 Figure 1).

Allowable Subject Matter

6. Claims 22-29 are allowed.

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Claim 20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F Stephens whose telephone number is (703) 308-8320. The examiner can normally be reached on Monday-Friday 9:00-5:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703)308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Jacqueline F Stephens
Examiner
Art Unit 3761

February 13, 2003


WEILUN LO
SUPERVISORY PATENT EXAMINER
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